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No. 91-804

Supreme Court, U.S.

FILED

JAN 21 1992

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**IN THE
SUPREME COURT of the UNITED STATES
OCTOBER TERM, 1991**

**DAVID C. MOGAN,
Petitioner,**

vs.

**THE PEOPLE OF THE STATE OF MONTANA,
Respondents.**

**PETITION FOR WRIT OF CERTIORARI FROM
THE SUPREME COURT OF MONTANA**

PETITIONER'S REPLY BRIEF [RULE 15.6]

**David C. Mogan
In Propria Persona
P.O. Box 366
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(406) 364-2222**

January 1992



COMES NOW the Petitioner, DAVID C. MOGAN, in his own proper person, dejure; and by these presents files Petitioner's 'Reply Brief' in response to Respondent's Brief pursuant to Rule 15.6 of the Supreme Court Rules, to-wit:

In short and sum, the only argument Respondent has raised is that:

"This Court is without certiorari jurisdiction to review a Montana district court decision as these courts are not 'the highest court of a state in which a decision could be had'." [See page 2, Argument section, paragraph one.]

In the case at bar, Petitioner has made every effort to be heard in the Montana Supreme Court; which such efforts have been thwarted and cut usunder by the Respondent's reliance upon a certain notice: to the which is neither legible nor intelligible [see Appendix "E1"].

As might be expected, the Respondent continues to perpetuate the falsehood about such notice aforesaid and relies upon the same in Respondent's 'Statement of the Case', and states:

"The Musselshell County Attorney served Mogan on January 23, 1991, with a notice of respondent's intent to file a motion to dismiss the appeal pursuant to Mont. R. App. P. 11(c)."

It is this same notice [Appendix "E1"] which the Respondent knows full well is required by Rule 11(c), Mont. R. App. Procedure.

Absent such good and sufficient notice, that is to say absent a legible and intelligible copy of such notice having been served upon Petitioner by Respondent, the dismissal by the Montana Supreme Court is a cut and dried case of violation of the Petitioner's "due process of law".

When the 'War of the Rebellion' was lost, the penalty of association between the several states and the Federal State became known as the XIV Amendment to the United States Constitution.

State courts are prohibited from violating any citizen's "due process of law" by operation of such amendment.

The dismissal of Petitioner's appeal to the Montana Supreme Court constitutes a clear violation of Petitioner's right to "due process of law" in that Petitioner is entitled to a "black letter" application of the Montana Rules of App. Procedure which requires such "notice" as per Rule 11(c) as a prerequisite to dismissal [see Petition, pg. xi].

It may be that it is the obnoxious thing in its mildest and least repulsive form; but illegitimate and unconstitutional practices get their footing in that way, namely, by silent approaches and slight deviations from legal modes of procedure. Boyd v. US, 116 US 616, 635:

Further, it was the State Court itself who was the proximate cause of the delay in submitting the record to the Clerk of the Montana Supreme Court. The Court's attention is directed to Appendices "G1", "G2" and "G3".

Rule 33.1(a), Rules of the Supreme Court provides:

"... every document filed with the Court must be printed by (a process that) ... must produce a clear, black image on white paper ..."

Natural sense and common understanding require all courts to have such a rule and whenever a notice is required; surely it must be legible and intelligible.

Title 28 USC, Section 1257(a), clearly confers Petitioner's right of certiorari rather than prohibiting the same were this Court to apply 28 USC, Section 1257(a), in such a manner as the Respondent seeks to so do; lawlessness would reign supreme in the District of Montana.

This Court has an opportunity, nay a duty, to protect Petitioner's constitutional rights in general and his right to "due process of law" by way of the XIV Amendment in particular.

"No freeman shall be taken or imprisoned or disseised ... except by the ... law of the land." Chapter 39, Magna Charta. The words "due process of law" are intended to convey the same meaning as the words "by law of the land", in Magna Charta. Murray v. Hoboken Land Co., 59 US 272.

CONCLUSION

Respondent's argument is not grounded in law, and Respondent has failed and refused to address any of the issues set forth in Petitioner's 'Petition for Writ of Certiorari'. The federal question of law is based upon "due process of law".

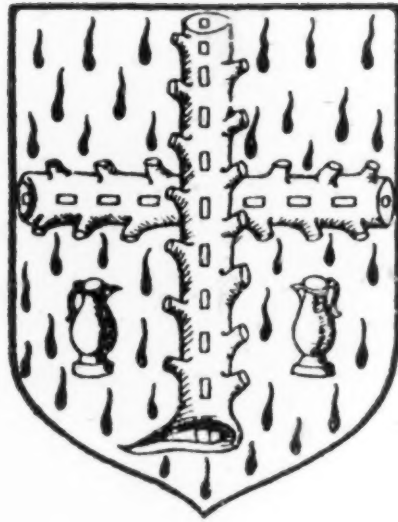
WHEREFORE, the Petition need issue so as to protect Petitioner's XIV Amendment right to "due process of law", the "law of the land".

Respectfully Submitted

DAVID C. MOGAN
In Propria Persona

January, 1992





ARMS ACCREDITED TO ST. JOSEPH

“When a land rejects her legends,
Sees but falsehoods in the past;
And its people view their Sires
In the light of fools and liars,
‘Tis a sign of its decline,
And its glories cannot last.
Branches that but blight their roots
Yield no sap for lasting fruits.”